

1 Michael J. Niborski (State Bar No. 192111)
2 *mniborski@pryorcashman.com*

3 **PRYOR CASHMAN LLP**
4 1801 Century Park East, 24th Floor
5 Los Angeles, California 90067-2302
6 Tel: (310) 556-9608
7 Fax: (310) 556-9670

8 Ilene S. Farkas (pro hac vice application forthcoming)
9 *ifarkas@pryorcashman.com*

10 **PRYOR CASHMAN LLP**
11 7 Times Square
12 New York, New York 10036-6569
13 Tel: (212) 421-4100
14 Fax: (212) 798-6306

15 *Attorneys for Defendant*
16 **ATLANTIC RECORDING CORPORATION**

17
18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20

21 JOHNATHON J. PUCKETT,

22 Plaintiff,

23 vs.

24 PETER GENE HERNANDEZ; and
25 ATLANTIC RECORDS,

26 Defendants.
27
28

Case No. 2:16-cv-02199 SVW (AGRx)

**DECLARATION OF ILENE S.
FARKAS IN SUPPORT OF
MOTION TO DISMISS
COMPLAINT**

*Notice of Motion and Motion and
Memorandum of Points and Authorities
filed concurrently herewith*

Hearing

Date: December 19, 2016

Time: 1:30 p.m.

Courtroom: 6

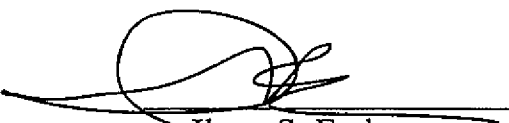
1
2 **DECLARATION OF ILENE S. FARKAS**

3 I, ILENE S. FARKAS, hereby declare as follows:

- 4 1. I am a member of Pryor Cashman LLP, counsel for Defendant Atlantic
5 Recording Corporation in the above-captioned action. I submit this
6 declaration in support of Atlantic Recording Corporation's Motion to
7 Dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure
8 12(b)(6) and for the purpose of putting into the record before the Court
9 certain exhibits referenced in the accompanying memorandum of law. I
10 am fully familiar with the facts alleged herein.
- 11 2. Attached hereto as **Exhibit 1** is demonstrative exhibit, providing the Court
12 with a side-by-side comparison of the song lyrics that Plaintiff included as
13 Exhibits B and C to the Complaint, without any edits or modification to
14 those lyrics as presented in Exhibits B and C to the Complaint.
- 15 3. Attached hereto as **Exhibit 2** are results from a search for the phrase, "I
16 would die for you" in the "title" field of the United States Copyright
17 Office's searchable online database for post-1978 records, which is
18 publicly available at www.copyright.gov/records/. This search was run
19 today, October 14, 2016.
- 20 4. Attached hereto as **Exhibit 3** is a copy of the Court's September 6, 2013
21 Order in *Steward v. West*, No. 2:13-cv-02449 BRO (JCx). At the time of
22 the filing of this Declaration and the Motion to Dismiss, this Order
23 appeared to be unavailable on Westlaw's and LEXIS's online databases.
24 Counsel for Atlantic Recording Corporation has requested that it be added
25 to the Westlaw database and so it may become available to the Court
26 through Westlaw during this proceeding.
- 27
28

1
2 I declare under the penalty of perjury that the foregoing is true and correct
3 to the best of my knowledge and belief.
4

5 Dated: October 14, 2016
6 New York, NY

7 
8 Ilene S. Farkas
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28